

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BOBBY GRUBBS,

Plaintiff,

**DECLARATION OF
RICHARD ADAMS**

-against-

STEVEN GRIMALDI ET AL.,

9:16-CV-1476

(TJM/DJS)

Defendants.

RICHARD ADAMS, on the date noted below and pursuant to §1746 of title 28 of the United States Code, declares the following to be true and correct under penalty of perjury under the laws of the United States of America:

1. I was employed by the New York State Department of Corrections and Community Supervision (“DOCCS”) as a Doctor at Clinton Correctional Facility (“Clinton”) from 2007 until November 2017, when I retired.

2. I received my medical doctorate from the Philadelphia College of Osteopathic Medicine in 1977.

3. I am a defendant in the above-captioned action and submit this declaration in support of defendants’ motion for partial summary judgment.

4. The information contained herein is based upon my personal knowledge and upon review of records maintained in the ordinary course of business by DOCCS. A certified copy of the pertinent portion of plaintiff’s medical records is attached to the Jim Declaration as Exhibit B.

5. It is my understanding that plaintiff brings this action claiming that, while housed at Clinton and beginning in approximately September 2014 to September 2016, I was deliberately indifferent to his medical needs.

6. Specifically, plaintiff alleges that I disregarded complaints made at least eight appointments concerning “the pain of [his] face and [his] serious need for medical shoes.” *See* Am. Compl. ¶¶ 72, 75.

7. As the following review of my professional contact with Grubbs demonstrates, I met with him regularly, monitored his medical concerns, prescribed appropriate medications, and requested outside consultations as needed.

8. I had no contact with plaintiff prior to September 2014.

9. On September 26, 2014, I reviewed plaintiff’s chart, approved a refill for HIV medications, and ordered lab work. I did not see the inmate on that date. *See* DOCCS 000191.

10. On October 8, 2014, Grubbs did not have a scheduled appointment. I was notified that he was up from the block, but when he was called, he was gone from the “bull pen” (waiting area). *See* DOCCS 000188.

11. On October 31, 2014, I saw Grubbs who arrived with a list of medical complaints. He said that he was suffering from “neuropathy” and tendonitis, experiencing burning in his feet and fingers all day and night, and that he had carpal tunnel syndrome. He claimed that he had an old maxillary fracture and stated, “I want it fixed. It reminds me of the nastiness of it all.” I examined him and found no gross asymmetry of the face. He made no complaint of pain or disability. I saw no reason for a referral to a specialist. I prescribed Meloxicam, a nonsteroidal anti-inflammatory drug (NSAID) for any pain he might be experiencing. *See* DOCCS 000184.

12. On March 17, 2015, I approved a renewal of Grubbs's prescription for Neurontin. I did not see him on this date. (DOCCS 000174).

13. On March 24, 2015, I reviewed an infectious disease consult and approved a vaccine. I did not see him on this date. (DOCCS 000172).

14. On April 8, 2015, Grubbs stated that he was looking for a referral to an otolaryngology (ENT) surgeon secondary to a use of force and a right-sided trauma to the maxilla. He complained of numbness of face when doing his hair or brushing his teeth. I noted that he had been denied such a referral in the past and recommended that he wait for the result of a pending grievance concerning the denial of an otolaryngology consult. He also told me that he needed "facial reconstruction." At the same appointment, Grubbs stated that he needed foot callouses fixed, in particular on his right great toe. I cut away and shaved off his callouses with a scalpel and instructed him on proper foot care. I saw no need for special issue or medical boots.

See DOCCS 000170.

15. On July 7, 2015, I renewed plaintiff's prescription for Neurontin. I did not see him on this date. *See* DOCCS 000158.

16. On July 31, 2015, I ordered a vaccine. I did not see Grubbs on this date. *See* DOCCS 000155.

17. On September 30, 2015, Grubbs told me about a depressed zygomatic arch that appeared on an x-ray taken on July 3, 2014, after he had been assaulted on December 17, 2013. He had not seen an otolaryngology specialist at that time. He now complained of an atypical pain, like "something poking in the face or part of the brain" and of numbness along the temporal area. I noted full facial function, without any defects evident on palpitation and no asymmetry of the face. My assessment was that he had an old zygomatic fracture and I suggested a Telemed

request for an otolaryngologist's opinion. *See* DOCCS 000150. It does not appear from the record that this was ever pursued.

18. On November 10, 2015, I renewed plaintiff's prescription for Neurontin. I did not see him on this date. *See* DOCCS 000147.

19. On January 19, 2016, Grubbs complained that, "I was supposed to get medical boots and I didn't get them," and "these boots are harsh on my feet." I observed some thickening of the callouses and a cavitary indentation on his feet, as well as a mild build-up of skin. I recommended soaking his feet and using a Pumi bar to remove the build-up of skin. *See* DOCCS 000137.

20. On March 30, 2016, I reviewed an infectious disease consult of March 16, 2016. I did not see Grubbs on this date. *See* DOCCS 000131.

21. On April 5, 2016, Grubbs told me that his "main issue" was his right-sided foot pain and right elbow. I did not observe any weakness or decrease in range of motion and I did not note that he had any problem walking. *See* DOCCS 000130.

22. On April 26, 2016, we dealt with HIV related issues. Plaintiff's face and feet were not discussed. *See* DOCCS 000125.

23. On May 10, 2016, I renewed Grubbs's prescriptions for Neurontin and Flomax. *See* DOCCS 000123.

24. Upon information and belief, on September 8, 2016, plaintiff was transferred to from Clinton to Green Haven Correctional Facility.

25. I had no further contact with plaintiff.

26. Based upon the above paragraphs, I was never deliberately indifferent to, and provided proper medical care for, plaintiffs' medical conditions, including complaints about

facial injuries and foot pain. At no point in time did plaintiff present to me with a serious or life-threatening medical condition. At no time have I ever been deliberately indifferent to the medical needs of a patient, including plaintiff.

27. I treated Plaintiff with general and sound practice standards in the practice of medicine in the community and the State of New York. No reasonable physician in my position would believe that the care and treatment I provided Plaintiff violated his federally protected rights insofar as my care was entirely in accord with community practice standards.

28. I respectfully request that summary judgment be granted in my favor and that the complaint be dismissed as against me.

Dated: May 25, 2018
Plattsburgh, New York

/s/ Richard Adams
RICHARD ADAMS, M.D.